

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 2
DOCKET NO.: 2007-1716-MLM-E **TCEQ ID:** RN105148852 **CASE NO.:** 34834
RESPONDENT NAME: McEachern Enterprises, Inc. dba Superior Clean Can

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input checked="" type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input checked="" type="checkbox"/> EDWARDS AQUIFER
<p>SITE WHERE VIOLATION(S) OCCURRED: Superior Clean Can, 8 Indian Meadows, Round Rock, Williamson County</p> <p>TYPE OF OPERATION: Portable sanitation company</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: A complaint was received August 27, 2007, alleging that spent wash water was discharging to a nearby creek. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: A complaint was received, but the complainant has not expressed a desire to protest this action or to speak at Agenda.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on April 7, 2007. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Samuel Short, Enforcement Division, Enforcement Team 3, MC 149, (512) 239-5363; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171 Respondent: Mr. Ray McEachern, Owner/President, McEachern Enterprises, Inc., 7606 Rustling Road, Austin, Texas 78731 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input checked="" type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: August 27, 2007</p> <p>Date of Investigation Relating to this Case: September 11, 2007</p> <p>Date of NOV/NOE Relating to this Case: October 5, 2007 (NOE)</p> <p>Background Facts: This was a complaint investigation.</p> <p>WATER</p> <p>1) Failed to prevent the unauthorized discharge of spent wash water. Specifically, portable toilet units are washed on a concrete pad. The spent wash water discharged from the pad, across a dirt road, and into an adjacent creek [TEX. WATER CODE § 26.121(a)].</p> <p>2) Failed to obtain approval of an Edwards Aquifer Water Pollution Abatement Plan ("WPAP") which implements best management practices to control pollution from regulated entities on the Edwards Aquifer Recharge Zone. Specifically, the Respondent bought the property without a WPAP in place and is conducting regulated activities without implementing best management practices to control pollution [30 TEX. ADMIN. CODE § 213.5(b)(4)(D)(ii)(I)].</p>	<p>Total Assessed: \$3,150</p> <p>Total Deferred: \$630 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$2,520</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Immediately upon the effective date of this Agreed Order, cease all unauthorized discharges by implementing best management practices to control the discharge of spent wash water;</p> <p>b. Within 30 days after the effective date of this Agreed Order, submit an administratively complete WPAP including the associated application fee;</p> <p>c. Respond completely and adequately to all TCEQ requests for additional information within 30 days of such requests, or by any other deadline specified in writing; and</p> <p>d. Within 45 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation to demonstrate compliance with Ordering Provisions a. and b.</p>

Additional ID No(s): N/A



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision September 19, 2007

TCEQ

DATES	Assigned	8-Oct-2007			
	PCW	1-Nov-2007	Screening	22-Oct-2007	EPA Due

RESPONDENT/FACILITY INFORMATION

Respondent	McEachern Enterprises, Inc. dba Superior Clean Can				
Reg. Ent. Ref. No.	RN105148852				
Facility/Site Region	11-Austin		Major/Minor Source	Minor	

CASE INFORMATION

Enf./Case ID No.		34834		No. of Violations		2	
Docket No.		2007-1716-MLM-E		Order Type		1660	
Media Program(s)		Water Quality		Enf. Coordinator		Samuel Short	
Multi-Media		Edwards Aquifer		EC's Team		Enforcement Team 3	
Admin. Penalty \$		Limit Minimum	\$0	Maximum	\$10,000		

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$3,000
---	-------------------	----------------

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History	5% Enhancement	Subtotals 2, 3, & 7	\$150
---------------------------	----------------	--------------------------------	--------------

Notes: Enhancement is recommended for having one NOV for the same or similar violation within the last five years.

Culpability	No	0% Enhancement	Subtotal 4	\$0
--------------------	----	----------------	-------------------	------------

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply	0% Reduction	Subtotal 5	\$0
------------------------------------	--------------	-------------------	------------

	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes: The Respondent does not meet the good faith criteria.

Total EB Amounts	\$305	0% Enhancement*	Subtotal 6	\$0
Approx. Cost of Compliance	\$9,000	<i>*Capped at the Total EB \$ Amount</i>		

SUM OF SUBTOTALS 1-7	Final Subtotal	\$3,150
-----------------------------	-----------------------	----------------

OTHER FACTORS AS JUSTICE MAY REQUIRE	0%	Adjustment	\$0
---	----	-------------------	------------

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount	\$3,150
-----------------------------	----------------

STATUTORY LIMIT ADJUSTMENT

Final Assessed Penalty	\$3,150
-------------------------------	----------------

DEFERRAL

20% Reduction	Adjustment	-\$630
---------------	-------------------	---------------

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY	\$2,520
------------------------	----------------

Screening Date 22-Oct-2007

Docket No. 2007-1716-MLM-E

PCW

Respondent McEachern Enterprises, Inc. dba Superior Clean Can

Policy Revision 2 (September 2002)

Case ID No. 34834

PCW Revision September 19, 2007

Reg. Ent. Reference No. RN105148852

Media [Statute] Water Quality

Enf. Coordinator Samuel Short

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	1	5%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 5%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement is recommended for having one NOV for the same or similar violation within the last five years.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 5%

Screening Date 22-Oct-2007	Docket No. 2007-1716-MLM-E	PCW		
Respondent McEachern Enterprises, Inc. dba Superior Clean Can	<i>Policy Revision 2 (September 2002)</i>			
Case ID No. 34834	<i>PCW Revision September 19, 2007</i>			
Reg. Ent. Reference No. RN105148852				
Media [Statute] Water Quality				
Enf. Coordinator Samuel Short				
Violation Number 1				
Rule Cite(s)	Tex. Water Code § 26.121(a)			
Violation Description	Failed to prevent the unauthorized discharge of spent wash water, as documented during an investigation conducted on September 11, 2007. Specifically, portable toilet units are washed on a concrete pad. The spent wash water discharged from the pad, across a dirt road, and into an adjacent creek.			
Base Penalty		\$10,000		
>> Environmental, Property and Human Health Matrix				
OR	Harm			
	Release	Major	Moderate	Minor
	Actual	<input type="text"/>	<input type="text"/>	<input checked="" type="checkbox"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>
		Percent	10%	
>> Programmatic Matrix				
	Falsification	Major	Moderate	Minor
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
		Percent	0%	
Matrix Notes	Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors.			
Adjustment		\$9,000		
		\$1,000		
Violation Events				
Number of Violation Events		1	Number of violation days	
		41		
mark only one with an x	daily	<input type="text"/>	Violation Base Penalty	
	monthly	<input type="text"/>		
	quarterly	<input checked="" type="checkbox"/>		
	semiannual	<input type="text"/>		
	annual	<input type="text"/>		
	single event	<input type="text"/>		
One quarterly event is recommended.			\$1,000	
Economic Benefit (EB) for this violation		Statutory Limit Test		
Estimated EB Amount		\$169	Violation Final Penalty Total	
			\$1,050	
This violation Final Assessed Penalty (adjusted for limits)			\$1,050	

Economic Benefit Worksheet

Respondent: McEachern Enterprises, Inc. dba Superior Clean Can
 Case ID No: 34834
 Reg. Ent. Reference No: RN105148852
 Media: Water Quality
 Violation No: 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$5,000	11-Sep-2007	15-May-2008	0.7	\$169	n/a	\$169

Notes for DELAYED costs

The estimated cost to cease the unauthorized discharge and to clean/disinfect the affected area. The date required is the date of the investigation and the final date is the projected date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$5,000

TOTAL \$169

Screening Date 22-Oct-2007

Docket No. 2007-1716-MLM-E

PCW

Respondent McEachern Enterprises, Inc. dba Superior Clean Can

Policy Revision 2 (September 2002)

Case ID No. 34834

PCW Revision September 19, 2007

Reg. Ent. Reference No. RN105148852

Media [Statute] Water Quality

Enf. Coordinator Samuel Short

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code § 213.5(b)(4)(D)(ii)(I)

Violation Description

Failed to obtain approval of an Edwards Aquifer Water Pollution Abatement Plan ("WPAP") which implements best management practices to control pollution from regulated entities on the Edwards Aquifer Recharge Zone. Specifically, the respondent bought the property without a WPAP in place and is conducting regulated activities without implementing best management practices to control pollution.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 10%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$9,000

TOTAL \$1,000

Violation Events

Number of Violation Events 2

41 Number of violation days

mark only one
with an x

daily	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$2,000

Two monthly events are recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$135

Violation Final Penalty Total \$2,100

This violation Final Assessed Penalty (adjusted for limits) \$2,100

Economic Benefit Worksheet

Respondent McEachern Enterprises, Inc. dba Superior Clean Can

Case ID No. 34834

Reg. Ent. Reference No. RN105148852

Media Water Quality

Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs	\$4,000	11-Sep-2007	15-May-2008	0.7	\$135	n/a	\$135
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Cost reflects the amount to prepare and submit a WPAP. The date required is the date of the investigation and the final date is the projected date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$4,000

TOTAL

\$135

Compliance History

Customer/Respondent/Owner-Operator:	CN603143447	McEachern Enterprises, Inc.	Classification: AVERAGE	Rating: 4.75
Regulated Entity:	RN105148852	SUPERIOR CLEAN CAN	Classification: AVERAGE	Site Rating: 8.00
ID Number(s):				
Location:	8 INDIAN MEADOWS, ROUND ROCK, TX, 78664		Rating Date: 9/1/2007 Repeat Violator: NO	
TCEQ Region:	REGION 11 - AUSTIN			
Date Compliance History Prepared:	December 13, 2007			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	October 19, 2002 to October 19, 2007			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name:	Samuel Short	Phone:	(512) 239-5363	

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? Yes
3. If Yes, who is the current owner? McEachern Enterprises, Inc.
4. If Yes, who was/were the prior owner(s)? Tribble Horitcultural Designs, Inc.
5. When did the change(s) in ownership occur?
09/01/2004

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A
 - B. Any criminal convictions of the state of Texas and the federal government.
N/A
 - C. Chronic excessive emissions events.
N/A
 - D. The approval dates of investigations. (CCEDS Inv. Track. No.)
N/A
 - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date:	02/09/2007	(536165)	
Self Report?	NO		Classification: Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121		
Description:	Failed to prevent the unauthorized discharge of spent wash water.		
Self Report?	NO		Classification: Major
Citation:	30 TAC Chapter 213, SubChapter A 213.4(a)(1)		
Description:	Failed to obtain approval of an Edwards Aquifer Water Pollution Abatement Plan ("WPAP") prior to beginning a regulated activity over the Edwards Aquifer Recharge Zone.		
 - F. Environmental audits.
N/A
 - G. Type of environmental management systems (EMSs).
N/A
 - H. Voluntary on-site compliance assessment dates.
N/A
 - I. Participation in a voluntary pollution reduction program.
N/A
 - J. Early compliance.
N/A
- Sites Outside of Texas

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
MCEACHERN ENTERPRISES, INC.
DBA SUPERIOR CLEAN CAN
RN105148852**

§
§
§
§
§
§

**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2007-1716-MLM-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding McEachern Enterprises, Inc. dba Superior Clean Can ("the Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a portable sanitation company at 8 Indian Meadows in Round Rock, Williamson County, Texas (the "Site").
2. The Respondent committed any other act or engaged in any other activity which in itself or in conjunction with any other discharge or activity causes, continues to cause, or will cause pollution of any water in the state under TEX. WATER CODE ch. 26.
3. This Site is regulated under the Edwards Aquifer rules and is not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission.
4. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
5. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about October 10, 2007.
6. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

7. An administrative penalty in the amount of Three Thousand One Hundred Fifty Dollars (\$3,150) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Two Thousand Five Hundred Twenty Dollars (\$2,520) of the administrative penalty and Six Hundred Thirty Dollars (\$630) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.
8. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
9. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Site, the Respondent is alleged to have:

1. Failed to prevent the unauthorized discharge of spent wash water, in violation of TEX. WATER CODE § 26.121(a), as documented during an investigation conducted on September 11, 2007. Specifically, portable toilet units are washed on a concrete pad. The spent wash water discharged from the pad, across a dirt road, and into an adjacent creek.
2. Failed to obtain approval of an Edwards Aquifer Water Pollution Abatement Plan ("WPAP") which implements best management practices to control pollution from regulated entities on the Edwards Aquifer Recharge Zone, in violation of 30 TEX. ADMIN. CODE § 213.5(b)(4)(D)(ii)(I), as documented during an investigation conducted on September 11, 2007. Specifically, the Respondent bought the property without a WPAP in place and is conducting regulated activities without implementing best management practices to control pollution.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 7 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: McEachern Enterprises, Inc. dba Superior Clean Can, Docket No. 2007-1716-MLM-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Agreed Order, cease all unauthorized discharges by implementing best management practices to control the discharge of spent wash water;
 - b. Within 30 days after the effective date of this Agreed Order, submit an administratively complete WPAP including the associated application fee for the Site to:

Edwards Aquifer Protection Program
Austin Regional Office
Texas Commission on Environmental Quality
2800 South I-35, Suite 100
Austin, Texas 78704-5712

- c. Respond completely and adequately to all TCEQ requests for additional information within 30 days of such requests, or by any other deadline specified in writing; and
 - d. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation to demonstrate compliance with Ordering Provision Nos. 2.a. and 2.b. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are

significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Edwards Aquifer Section, Manager
Austin Regional Office
Texas Commission on Environmental Quality
2800 S IH 35, Suite 100
Austin, Texas 78704-5712

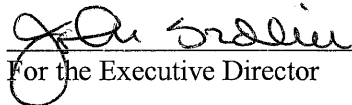
3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Site operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.

8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission


For the Executive Director

3/10/2008
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

Ray McEachern
Signature

1/16/08
Date

Ray McEachern
Name (Printed or typed)
Authorized Representative of
McEachern Enterprises, Inc. dba Superior Clean Can

President
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

THE FUTURE OF THE PAPER

By J. H. M. J. VAN DER WERF

THE FUTURE OF THE PAPER

THE FUTURE OF THE PAPER

THE FUTURE OF THE PAPER

THE FUTURE OF THE PAPER

THE FUTURE OF THE PAPER

THE FUTURE OF THE PAPER

THE FUTURE OF THE PAPER

THE FUTURE OF THE PAPER

THE FUTURE OF THE PAPER

THE FUTURE OF THE PAPER

THE FUTURE OF THE PAPER

THE FUTURE OF THE PAPER